

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

SAFECO INSURANCE COMPANY

Plaintiff,

v.

MARTIN O'NEAL, et al.

Defendants.

No. 08-2489-CM

ORDER

Plaintiff Safeco Insurance Company of America ("plaintiff") brings this interpleader action pursuant to 28 U.S.C. § 1335 to apportion, among defendants, personal injury policy ("PIP") benefits and medical payment benefits owed as a result of a multi-fatality automobile accident. Pending before the court is plaintiff's Motion to Disburse Funds, in which plaintiff asks this court for an order disbursing \$15,000.00 to defendant Wall Funeral Homes, Inc. (Doc. 25.) For the following reasons, the court grants the motion.

On August 7, 2008, a vehicle insured under a policy issued by plaintiff was involved in a collision. All three of the vehicle's occupants died, as did two of the occupants of the other car.

According to plaintiff, the policy provides \$2,000.00 in funeral benefits as a PIP benefit. The policy also provides \$3,000.00 in medical payments benefits, which apply to funeral expenses. Each of those benefits was available for the three occupants of the vehicle insured by plaintiff's policy.

Defendant Wall Funeral Homes provided services for each of the three occupants. According to plaintiff, Wall Funeral Homes has presented bills for the services provided as a result of each death, and each bill exceeds \$5,000.00.

Plaintiff has deposited funds into the Registry of the Court, and moves the court for an order directing that the Clerk of the Court disburse the sum of \$15,000.00 to defendant Wall Funeral Homes in satisfaction of its interest.

Plaintiff asserts that it has been unable to obtain the agreement of all of the claimants with regard to payment of the funeral expenses. Disbursement of these funds may operate as a default judgment against defendants by terminating their interest in that amount. *State Farm Mut. Auto. Ins. Co. v. Wagnon*, 1992 WL 64883, 1 (10th Cir. 1992) (citations omitted) (A default judgment entered against a claimant in an interpleader action terminates that party's interest in the fund at issue).

Nevertheless, no defendant filed any opposition to the instant motion to disburse. Moreover, no defendant responded to this court's February 2, 2009 order directing defendants to show cause by February 16, 2009 why plaintiff's motion for disbursement of funds should not be granted.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Disbursement of Funds (Doc. 25) is granted.

IT IS FURTHER ORDERED that the Clerk of the Court disburse the sum of \$15,000.00 to defendant Wall Funeral Homes in satisfaction of its interest in this interpleader action.

IT IS FURTHER ORDERED that the parties file the documents necessary to dismiss defendant Wall Funeral Homes from this action.

Dated this 22nd day of April, 2009, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge